

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Parts 73 and 74 of the)	
Commission's Rules to Establish Rules for Digital)	MB Docket No. 03-185
Low Power Television, Television Translator, and)	
Television Booster Stations and to Amend Rules)	
for Digital Class A Television Stations)	

To: The Commission

**REPLY COMMENTS OF
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC. AND
THE NATIONAL ASSOCIATION OF BROADCASTERS**

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SUMMARY

Broadcasters and the Commission stand at the brink of a critical phase of the digital television transition. Recently, the Commission has taken a number of steps, including adopting broadcast flag, DTV tuner, and plug and play requirements, intended to advance the transition by increasing the availability of compelling digital content and expediting the public's access to digital technology. It is poised to finalize digital must carry rules, which are essential for bringing digital broadcast service to the vast majority of U.S. television households. Each of these steps is critical for attaining Congress's and the Commission's goal of expeditiously transitioning full power television stations to digital broadcasting and to serving the public by making available to them innovative new digital services.

The Commission launched this proceeding to determine how best to transition Class A, LPTV, translator and booster stations in the face of limited spectrum availability and other challenges presented by the digital transition. As MSTV and NAB explained in their comments, as the Commission begins its analysis, it should not lose sight of the underlying fact that it is the full power television broadcast service that is driving the DTV transition and that will ultimately spur consumers to embrace digital technology. The Commission, broadcasters, consumers and other affected industries are well down the road of transitioning to digital, and the momentum of the transition is just beginning to take hold. At the same time, interference to full power DTV service—already a problem based on existing services alone—has the potential to throw the transition off course. The Commission therefore should: (i) decline, in the face of the complex repacking and interference issues presented by transitioning full power stations to digital, to grant second channel authorizations to Class A, LPTV and translator stations; (ii) permit these services to flash-cut to digital operations on-channel, provided that the interference

requirements for these services are satisfied; (iii) refuse to use this rulemaking as a vehicle for changing the fundamental nature of Class A, LPTV, translator or booster service; and (iv) establish interference criteria sufficient to protect the nation's full power digital service from any harmful interference by transitioning low power services. This is the most effective way for the Commission to allow low power services to take part in the digital transition without compromising the public's full power television service and the benefits that it brings to virtually all Americans.

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The Association for Maximum Service Television, Inc. ("MSTV") and the National Association of Broadcasters ("NAB")¹ submit these reply comments on the Commission's *Notice of Proposed Rule Making* in the above-captioned proceeding.² As MSTV and NAB explained in their comments,³ while the Commission should consider how to facilitate the transition of Class A, LPTV and translator services to digital technology, the overall public interest requires that the conversion of those services be done in a way that does not impede the digital transition of the full power broadcast service. For the past six years, full power broadcasters have met the challenges of transitioning the public's free television service to digital with a tremendous investment of time, resources, financing, capital, and technical

¹ MSTV represents nearly 400 local television stations on technical issues relating to analog and digital television services. NAB serves and represents the American broadcast industry as a nonprofit incorporated association of radio and television stations.

² In re *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Notice of Proposed Rule Making, 18 FCC Rcd 18365 (2003) ("*Notice*").

³ See Comments of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters in MB Docket No. 03-185 (Nov. 25, 2003) ("MSTV/NAB Comments").

expertise. Ensuring that the public will have access to full power digital services remains broadcasters' goal in the Commission's complex proceedings concerning cable carriage, DTV equipment, and technical standards. And preserving the public's access to the television services they depend upon the most will be even more complex as stations prepare for and make the migration to final DTV channels in the reduced DTV core spectrum. Wisely, the Commission has made expeditiously completing this complex full power DTV transition a top priority. To ensure that the digital transition continues to progress without widespread disenfranchisement and disruption of service to viewers, it is essential that the preservation of full power broadcast service remain paramount. The very nature of primary and secondary services requires this. MSTV and NAB thus urge the Commission not to be swayed by those who seek to use this proceeding to secure additional channels for low power broadcast services or as a vehicle for changing the fundamental nature of low power services.

I. GRANTING SECOND CHANNELS TO CLASS A, LPTV OR TRANSLATOR STATIONS DURING THE FULL POWER DTV TRANSITION WOULD HARM THE PUBLIC INTEREST AND INTERFERE WITH THE TRANSITION

The public interest dictates that the Commission not grant second channel authorizations to Class A, LPTV or translator stations during the full power DTV transition. Affording additional channels to lower power broadcasters now—something the Commission expressly is not required to do—would jeopardize the digital service of full power stations by further congesting broadcast spectrum when many full service stations are ramping up their digital operations. It would risk causing harmful interference to full power broadcasting from channels that were not contemplated at the time the Commission undertook the complicated and difficult task of establishing the transition's DTV Table and would thereby deprive the public of digital service at the same time that the Commission has adopted policies like the DTV tuner, broadcast flag, and plug and play requirements meant to encourage consumers to embrace digital

technology.⁴ Furthermore, squeezing more channels, regardless of their status, into already crowded broadcast spectrum that must be repacked as full service stations make their digital channel elections and migrate to final DTV channels contravenes the public's interest in a swift transition. MSTV and NAB urge the Commission to move ahead with its well-established policy of serving the public interest by prioritizing the transition of full power stations and permitting Class A, LPTV and translator licensees to transition to digital operations on-channel, subject to fixed interference criteria.

A. The Commission Need Not Provide Second Channels To Class A, LPTV And Translator Stations.

The Commission's determination of whether to grant second channels to Class A, LPTV or translator licensees, and on what terms, rests in its sole discretion. As MSTV and NAB explained in their comments, the Communications Act explicitly states that the Commission is not required to grant second channels to Class A licensees. Congress deferred to the Commission as the expert agency with respect to this issue,⁵ and when the Commission implemented the service rules and regulatory scheme for Class A stations, it rightly concluded that granting second channels would be harmful and disruptive to the transition of full power stations.⁶ It is equally clear that the Commission is not required to provide second channels to LPTV or translator stations. The Communications Act plainly states that no second channel authorizations need be granted to Class A licensees or to translators, and it does not even

⁴ Moreover, as MSTV and NAB discussed in their comments in this proceeding, because the full interference characteristics of digital service are not yet fully understood, the interference actually caused by granting second channels to low power services could be much greater than what engineering models would predict. *See* MSTV/NAB Comments at 4.

⁵ *See* MSTV/NAB Comments at 9-11.

⁶ *See In re Establishment of a Class A Television Service*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8276 (2001) ("*Class A Reconsideration Order*"); *In re Establishment of a Class A Television Service*, Report and Order, 15 FCC Rcd 6355, 6394 (2000).

contemplate that LPTV stations would be permitted to apply for second channels.⁷ The Commission is under no obligation to grant second channels to Class A, LPTV or translator licensees, and it should decline to do so for important public policy reasons, including ensuring the successful completion of the digital transition for full service broadcasting.

Many commenters agree with MSTV and NAB that the Commission should direct its resources to transitioning the full power television service to digital and to repacking the core DTV spectrum, rather than using its discretion to grant new licenses to low power services that will further clutter already congested spectrum and potentially cause harmful interference to the public's reception of the digital operations of full power stations. Full power stations face tremendous challenges as they transition to a digital broadcast service. They must not only launch and promote their digital channels, but also invest time and money in developing and acquiring digital content. They must compete with the ever-increasing array of services offered by cable operators and DBS providers. And they are developing their digital offerings in an environment that for now does not include cable carriage rights that are crucial for reaching the majority of their viewers.

It has been well-established by both Congress and the Commission that completing the digital transition is in the public interest. The Commission has made full service digital broadcasting its "top priority."⁸ One of the Commission's goals with respect to the transition is the "full accommodation" of full power stations as they convert to digital operations.⁹ However, accommodating full service broadcasting is complicated, as one station's

⁷ See 47 U.S.C. § 336(f).

⁸ Notice ¶ 131.

⁹ Joint Comments of Corridor Television, LLP and Rapid Broadcasting Co. in MB Docket No. 03-185, at 2-3 (Nov. 25, 2003); *see also* Comments of Paxson Communications Corp. in MB Docket No. 03-185, at 3 (Nov. 25, 2003) (expressing concern "that the Commission is confusing (continued...)

election to change its digital channel creates a cascading daisy chain effect on other digital operations and reception.¹⁰ The FCC has proposed that broadcasters make their channel elections in 2005. As broadcasters migrate to their final digital channels, the daisy chain effect will snowball and interference problems will arise. Commencing a process to grant second DTV channels for Class A, LPTV and translator stations will divert FCC and broadcast engineering resources from their primary objective. The Commission should continue to prioritize resolving repacking issues and ensuring a smooth transition for full power broadcasting over granting second channels to Class A, LPTV or translator stations.¹¹

B. Granting Second Channels To Class A, LPTV And Translator Stations Is Unnecessary Because They Can Convert To Digital Operations On-Channel.

Class A, LPTV and TV translator licensees can transition to digital service without second channels—just as many full power stations have been required or have chosen to do.¹² As numerous participants in this proceeding agree, these stations can flash-cut to digital operations on-channel, provided they satisfy the minimum interference requirements the Commission adopts for digital Class A, LPTV and translator stations to avoid harm to the

its priorities and risks putting the low-power DTV cart before the full-power DTV horse”) (“Paxson Comments”).

¹⁰ See Comments of Cox Broadcasting, Inc. and the Liberty Corp. in MB Docket No. 03-185, at 3 (Nov. 25, 2003) (“Cox/Liberty Comments”).

¹¹ See Comments on Notice of Proposed Rulemaking of Cavalier Group, LLC in MB Docket No. 03-185, at 9-11 (Nov. 25, 2003) (“Cavalier Comments”); Cox/Liberty Comments at 3-4 (“Authorizing additional spectrum for digital LPTV and Class A stations at this time would impede the repack process by further congesting an already congested spectrum and further complicating an already complicated task.”). As MSTV and NAB explained in their comments, there are a few rare instances in which a translator facility might be permitted to commence digital operations on an additional channel to provide service to geographically isolated areas. See MSTV/NAB Comments at 4 n.10. The Commission should not, however, grant any requests that would result in any interference to full service stations or in any way limit their channel choices. See *id.*

¹² See MSTV/NAB Comments at 12.

public's full power television service (see Part III, below).¹³ The Commission should make clear, however, "that any conversion is — like all low-power operations — at the station's own risk and that the Commission will not be sympathetic to future complaints about stranded investments in DTV equipment."¹⁴

As discussed above, Congress has made clear that the Commission need not award second channels to Class A, LPTV and translator stations during the transition.¹⁵ Furthermore, the Communications Act does not even contemplate that LPTV stations would be allowed to apply for an additional channel.¹⁶ Allowing these Class A, LPTV and translator services to transition to digital on-channel in order to minimize the disruption to the full service stations driving the transition is a workable middle ground that is fully consistent with legislative intent.

¹³ See Cavalier Comments at 8; Comments of KM Broadcasting, Inc. in MB Docket No. 03-185, at 7 (Nov. 25, 2003) ("There is no need for additional LPTV channels at the expense of existing LPTV operators that need the regulatory assistance to create the assurance for capital markets to ensure industry growth. Allowing current operators to have two channels when most can barely manage one will do nothing to assist the development of the industry.") ("KM Comments"). The FCC's DTV tuner mandate may ease the burden on consumers in remote or rural areas that lack cable service whose low power stations flash-cut to digital operations by gradually populating homes with DTV capable sets.

¹⁴ Paxson Comments at 8. The Commission should not grant unconditional cable carriage rights to Class A, LPTV and translator stations willing to transition on-channel within the next year. See Comments of Word of Life Ministries -- KADO, CA, Shreveport, Louisiana, Facility ID: 38497 in MB Docket No. 03-185, at 1-2 (Nov. 25, 2003). As discussed in Part II, the Commission should not heed calls in this proceeding to change the basic nature of these services or to provide them with expanded rights. Doing so is counterproductive as it would impede the digital transition by diverting resources, attention and time away from the full power service.

¹⁵ As MSTV and NAB thoroughly explained in their comments, Congress did not require the Commission to grant second channels to Class A licensees, instead deferring to the Commission as the expert agency with respect to the issue. See MSTV/NAB Comments at 5-6.

¹⁶ See *id.* at 6.

C. If The Commission Makes Some Provision For Additional Channels For Class A, LPTV Or Translator Stations, Those Channels Must Have Secondary Status.

If the Commission decides to make second channels available to any Class A, LPTV or translator services, it has ample authority to require that any such channels have secondary status. The Commission long ago determined that the public interest was best served by giving analog LPTV and translator stations secondary status so as not to interfere with the service provided by the public's full power stations, and there is no justification for changing that determination in the digital environment.

In the *Notice* the Commission proposed that, if it were to grant any second channels to Class A licensees in spite of the risks posed to the transition, those channels should have secondary status and be subject to the Commission's rules for low power stations.¹⁷ As MSTV and NAB explained, this approach is consistent with the Communications Act, which (i) expressly does not require the Commission to provide second channels and (ii) does not specify that any second channel digital authorizations the Commission decides to grant must have the same status as analog Class A stations.¹⁸ Furthermore, the protected status of analog Class A stations is not absolute. Although Congress granted analog Class A stations a form of primary status, it also determined that the rights of Class A stations must give way to the needs of the digital transition. To avoid impeding the transition of full power broadcasting, it established that Class A licensees may be displaced where necessary to accommodate the digital needs of a full

¹⁷ See *Notice* ¶ 111.

¹⁸ See 47 U.S.C. § 336(f)(4); see also H.R. Rep. No. 106-384, at 14 (1999) ("Paragraph (4) makes clear that the FCC is not required to issue Class A LPTV stations (or translators) an additional license for advanced television services.").

power station.¹⁹ Similarly, the protected status of Class A stations is conditioned upon their not causing interference to the replicated or maximized facilities of full power broadcasters.²⁰ When a Class A station does cause harmful interference to a full power station's maximized facilities, it is clearly established that the rights of the Class A station must give way.

The Community Broadcasters Association asserts that "Congress made a strong statement in favor of permanence for stations providing local programming when it" established Class A service and that therefore a Class A licensee's analog and digital channels should have primary status.²¹ In fact, when Congress established Class A service, it made clear that the transition of the full power broadcast service remained its overarching focus and priority.²² Moreover, granting Class A stations a second channel does nothing to enhance their "permanence," since the grant would be only temporary (until the licensee was broadcasting in digital format only). Were it to decide to grant second channels to Class A licensees under some circumstances, the Commission should afford them secondary status.²³

However, MSTV and NAB caution the Commission, before it decides to go down the road of granting second channels based on their secondary status, that history has shown that

¹⁹ See 47 U.S.C. § 336(f)(1)(D) (allowing the FCC to make modifications to certifications of eligibility for Class A stations to ensure replication and maximization of full power DTV facilities); see also *Class A Reconsideration Order*, 16 FCC Rcd at 8266-67 (2001) ("The CBPA provides that a Class A application for license or license modification may not be granted where the proposal would interfere with DTV stations seeking to 'maximize power' under the Commission's rules.").

²⁰ See H.R. Rep. No. 106-384, at 10 (1999).

²¹ Comments of the Community Broadcasters Ass'n in MB Docket No. 03-185, at 6 (Nov. 25, 2003) ("CBA Comments"); see also Comments of WatchTV, Inc. in MB Docket No. 03-185, at 3 (Nov. 25, 2003).

²² See H.R. Rep. No. 106-384, at 7 (1999) (authorizing the creation of a low power television service and noting the importance of "protect[ing] the transition to digital").

²³ A Class A licensee's digital channel could be granted full Class A status at such time as the station returns its analog channel and is operating only in digital.

secondary status is not a panacea and can cause real and costly problems for primary service users and the public they serve. As Cox and Liberty explained, “Although in the *Notice* the Commission states that new digital LPTV stations must operate on a non-interfering basis to full power stations, experience suggests that full power stations still must account for such secondary stations.”²⁴ In fact, two of Liberty’s full power stations have yet to receive digital construction permits because of objections from low power stations.²⁵ Problems like this would only increase were the Commission to create new classes of service with secondary status, thereby disrupting the digital transition and the public’s ability to receive digital broadcast service. In addition, the Commission would be required to divert resources used for reviewing digital applications from full service stations to process applications for second channels. The Commission also would need to devote time and resources to resolving disputes arising from applications for second channels, as well as the problems that would inevitably arise once low power broadcasters commenced service. Therefore, if the Commission determines that it will grant second channel authorizations to some lower power broadcasters, it should do so conservatively and ensure that all such authorizations (including those granted to Class A licensees) are afforded only secondary status.²⁶

²⁴ Cox/Liberty Comments at 5 (footnote omitted); *see also* Cavalier Comments at 6 (“Regardless of the ‘secondary’ status of the new Secondary Stations, the NTSC and DTV stations would still have to deal with them. That takes time and money that would be better spent to ‘establish procedures and policies that will assure both an equitable channel election process and a spectrum-optimizing repacking process.’”).

²⁵ *See* Cox/Liberty Comments at 6.

²⁶ Contrary to the proposals advanced by APTS and PBS, in crafting a solution to the problem of resolving competing applications from both commercial and noncommercial applicants, the Commission should avoid tilting the scales in favor of noncommercial stations.

II. THE COMMISSION SHOULD NOT USE THIS PROCEEDING TO UPGRADE CLASS A, LPTV, TRANSLATOR OR BOOSTER SERVICES

A number of parties are seeking to use this proceeding to alter fundamentally the nature of Class A, LPTV and translator stations by expanding the services they are permitted to offer or cutting back on their obligations as broadcasters. There is no cause to change the character or status of low power services because they are operating in a digital mode, and it is not in the public interest to do so. Agreeing to the upgrades put forth by some participants would jeopardize the digital transition by threatening the service that full power stations offer to the greater viewing public.

The Commission commenced this rulemaking with the goal of “establish[ing] a regulatory framework that will hasten the transition of LPTV and TV translator stations to digital operations and to do so in a manner that minimizes disruption of existing service to the consumers served by analog LPTV and translator stations.”²⁷ Ensuring that the service rules applicable to digital Class A, LPTV and translator stations mirror those that govern these services in analog format will satisfy consumer expectations in the digital environment.²⁸ Moreover, by proceeding conservatively and declining to expand these types of services, the Commission will avoid interfering with the transition of the full power broadcast service. Because full power stations and their viewers are driving the transition, their conversion to digital operations will in turn facilitate the transition of LPTV and translator stations.²⁹ While some commenters insist that digital Class A, LPTV and translator stations should be entitled to

²⁷ Notice ¶ 2.

²⁸ As noted above, if the Commission decides to grant second channel authorizations to Class A licensees, these second channels should not qualify as “Class A” stations but should have secondary LPTV status only.

²⁹ See Notice ¶ 131.

more rights in the digital environment than in the analog because of the investments they are making in digital, in fact the situation these services face in the digital context is no different from what it was in analog. Therefore, digital Class A, LPTV and translator stations generally should be subject to the same rules and requirements as in the analog environment.

A. Class A And LPTV Stations.

The Commission cannot and should not increase the number of low power stations with Class A status. When Congress created the Class A service in 1999, it firmly established a one time window for applying for a Class A license, effectively setting the number of Class A stations as a closed universe.³⁰ There were good reasons for this decision, including minimizing disruption to the digital transition of full power broadcasting. There could not be a worse time to deviate from this well-reasoned determination than now, when full power broadcasting is in the midst of transitioning to digital operations and approaching the complex process of electing channels and repacking the broadcast spectrum. Similarly, there is no justification for affording different treatment to urban and rural LPTV stations by making rural spectrum use secondary to urban spectrum use.³¹ Spectrum in densely-populated urban areas is already congested, and full power broadcasters are experiencing interference and other problems relating to the digital transition. Enhancing the priority given to urban LPTV stations will serve only to complicate further the transition in these important population centers. It also reverses what should be the Commission's priority—providing first service to rural areas.

Ensuring that viewers receive service from digital Class A, LPTV and translator licensees that matches what they have come to expect from analog stations serves the public's

³⁰ See 47 U.S.C. § 336(f)(1)(C).

³¹ See Comments of Abacus Television and Turnpike Television in MB Docket No. 03-185 (Nov. 25, 2003) ("Abacus/Turnpike Comments").

interest in preserving free, over-the-air television service. Therefore, contrary to the assertions of some commenters, digital LPTV stations should be subject to the same minimum programming requirements as analog LPTV stations, and LPTV licensees should not be permitted to use their entire 6 MHz of spectrum to provide subscription services or be given the authority to provide two-way services. A digital LPTV station, like a full power digital broadcaster, should provide free, over-the-air video programming similar to the programming that the Commission has determined is in the public interest in the analog environment. While LPTV stations may also offer some ancillary and supplementary services, there is no justification for allowing LPTV stations to deprive viewers of free broadcast television by occupying the public airwaves to provide only fee-based services to viewers.

Some participants in this proceeding suggest allowing digital Class A and LPTV stations to use the suffix “-DT.”³² While a two letter suffix for digital Class A and LPTV stations is appropriate because PSIP allows for only seven characters (including the hyphen), the Commission should not permit Class A and LPTV stations to use the suffix “-DT.” That suffix would be misleading, as it does not at all distinguish between full power and low power services. Instead, the Commission should heed the suggestion of Venture Technologies Group and use the suffix “-DL” for digital LPTV stations and “-DA” for digital Class A stations to avoid confusion with full power digital stations.³³

³² See Comments of Bruno Goodworth Network Inc. in MB Docket No. 03-185, at 7 (Nov. 25, 2003); Comments of International Broadcasting Network in MB Docket No. 03-185, at 3 (Nov. 25, 2003).

³³ See Comments of Venture Technologies Group, LLC in MB Docket No. 03-185, at 8-9 (Nov. 25, 2003).

B. Translator Stations.

With respect to digital translator service, the Commission should heed the warning set forth by Venture Technologies Group: creating new opportunities for digital translators by upgrading the services they provide generally risks flooding the Commission with new applications—applications that would divert the Commission’s resources away from transitioning full power stations to digital, which should be its primary focus.³⁴ Moreover, the purpose of translator stations is to extend the reach of the primary station’s signal to viewers who otherwise would not be able to receive it. In the analog environment, translators enable such viewers to receive the same service as households that are able to pick up the main station’s signal over the air. These viewers should not be deprived of all of the services offered by the same parent station in the digital environment, and the parent station should not be denied the opportunity to provide all of its services to these viewers.³⁵

A digital translator should therefore pass through a station’s full digital service without alterations, including additions or deletions, or degradation of the digital signal. However, *during the transition*, particularly in remote areas where it is too costly for broadcasters to build separate translators, it may make sense for the Commission to make an exception to permit a single digital translator to retransmit the digital signals of multiple full power stations, provided that each of the parent stations consents to the retransmission.³⁶

³⁴ See *id.* at 2-3.

³⁵ For similar reasons, the Commission should also decline to change the basic nature of translator service in other ways by, for example, allowing digital translator stations to originate more than thirty seconds of local programming per hour. See, e.g., Abacus/Turnpike Comments at 2, 5-6. Digital translator stations that wish to provide more local content can, like analog translators, easily apply to become low power stations in order to broadcast as much local programming as they please.

³⁶ After the transition, digital translators would be required to carry the entirety of a parent station’s digital signal, including ancillary and supplementary and other non-broadcast services.

Allowing such “multicasting” by a digital translator would spur access to digital service for viewers in remote areas who otherwise would be deprived entirely of any of the main station’s digital services. During the transition, there may not be sufficient translators in some rural areas to service all parent stations, particularly as translator stations are displaced in the process of repacking the core DTV spectrum. The result could be a temporary shortage of translators. To avoid a situation in which not every parent station has access to the digital translators that are essential for reaching its far-flung viewers in isolated areas, MSTV and NAB therefore suggest that the Commission permit digital translators to multicast the digital signals of several broadcasters during the transition with the consent of parent stations. Except for this temporary exception, which will promote the rollout of digital service in underserved communities during the transition, such translators should otherwise retransmit all of the bits of the parent station in the same format as provided by the parent station.

C. Booster Stations.

The FCC should not establish rules for digital boosters at this time. As MSTV and NAB explained in their comments, and as the Commission recognized in the *Notice*, digital booster systems are complicated and must be carefully engineered to avoid interference between the input and output broadcast signals on the same channel. Instead, as MSTV and NAB, as well as Cox and Liberty, have urged, the Commission should direct its resources to exploring the opportunities presented by distributed transmission systems.³⁷ As the Commission stated in the *Second Biennial Review*, these systems have the benefit of efficiently enhancing a full power

³⁷ See Cox/Liberty Comments at 7; MSTV/NAB Comments at 23-24.

station's digital service while also making available more broadcast spectrum for other purposes.³⁸

III. TECHNICAL ISSUES

The Commission received a broad range of comments on its proposed technical framework and rules intended to hasten the transition of Class A, LPTV and translator stations to the new digital environment while protecting the viewers currently being served by full power analog and digital stations. Some commenters, seeking to use this proceeding to alter fundamentally the nature of Class A, LPTV and translator stations, proposed to relax further the interference protection the Commission proposed to protect full power digital stations in this proceeding. Others proposed to degrade further the protection afforded to full power service by allowing the operation of adjacent channel LPTV or translator stations inside a full power station's service area or relaxing the out-of-band splatter to allow LPTV transmitters to be built inexpensively. MSTV and NAB believe that these and similar proposals only serve to erode further the protection afforded to full power stations under the existing analog rules. They are contrary to the Commission's well-established policy that Class A, LPTV and TV translator stations are secondary to and must not cause interference to the reception of signals of full power analog and digital stations. The best way to ensure a successful transition of both full and low power services to digital is to mirror the adoption of protections afforded to full power stations in the analog service to the digital environment.

³⁸ See *In re Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television; Public Interest Obligations of TV Broadcast Licensees; Children's Television Obligations of Digital Television Broadcasters; Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Notice of Proposed Rule Making, 18 FCC Rcd 1279, 1315-17 (2003).

Most of the commenters agree with MSTV and NAB that the Commission should adopt contour protection values, contour overlap protection criteria, and the use of Desired-to-Undesired (D/U) signal strength ratios in the development of interference protection methodology.³⁹ Many commenters, including MSTV and NAB, rejected the use of D/U ratios as the sole criteria and basis for accepting applications for new channels from digital Class A, LPTV and translator stations and/or analyzing interference to full power stations and urged the Commission to adopt a process similar to that currently used for the analog service. Existing rules have for the most part protected full power analog facilities from harmful interference that disrupts service to viewers, and one of the reasons for the success of those rules is that full power stations are protected to their contours.

There was no consensus in the comments filed in this proceeding concerning the use of OET Bulletin No. 69 (“OET-69”) and the Longley-Rice Model to evaluate routinely interference for Class A, low power and translator stations. Some commenters questioned the Longley-Rice Model’s accuracy and reliability,⁴⁰ while others questioned the failure of OET-69 to compute adequately the transmitting antenna’s vertical pattern and downtilt for Class A, low power and translator stations.⁴¹ MSTV and NAB agree with many of the comments regarding use of OET-69 in computing interference resulting from transmitting vertical patterns and urge

³⁹ See CBA Comments at 3; Comments of du Treil, Lundin & Rackely, Inc. in MB Docket No. 03-185, at 2-3 (Nov. 25, 2003) (“du Treil Comments”); Comments of Entravision Holdings, LLC in MB Docket No. 03-185, at 6 (Nov. 25, 2003); Comments of Mullaney Engineering, Inc. in MB Docket No. 03-185, at 2 (Nov. 25, 2003) (“Mullaney Engineering Comments”); Comments of the National Translator Association in MB Docket No. 03-185, at 11 (Nov. 25, 2003) (“NTA Comments”); Comments of R. Kent Parsons, State of Utah Television Translator Coordinator, in MB Docket No. 03-185, at 11 (Nov. 25, 2003).

⁴⁰ See Fox Comments at 9-10; Comments of Metrocast Corp. in MB Docket No. 03-185, at 4 (Nov. 25, 2003) (“Metrocast Comments”); MSTV/NAB Comments at 17.

⁴¹ See du Treil Comments at 4; Mullaney Engineering Comments at 4, Metrocast Comments at 5; NTA Comments at 12.

the Commission to modify OET-69 to model more accurately the transmitting antenna vertical pattern near the transmitter. We further point out that OET-69 lacks the appropriate D/U ratios to calculate interference between full power and low power stations when strong signal conditions are present.⁴² Development of interference rules and appropriate D/U ratios for Class A, LPTV and translator stations are important to assess accurately interference and should be based on the best available information and measured performance of both the transmitter and the receiver. In developing these rules, the Commission should factor in the ongoing ATSC activities in developing a Recommended Practice for DTV receiver performance, as well as adopt the “stringent” emission mask proposed by the FCC to minimize adjacent channel interference between full power and low power stations.

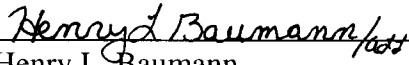
* * *

For the foregoing reasons, MSTV and NAB urge the Commission to protect the nation’s full power broadcast service by declining to grant second channel authorizations to Class A, LPTV and translator stations or to change the fundamental nature of these services in the digital environment and by adopting interference requirements that will protect the service that full power broadcasters provide to their viewers.


⁴² See MSTV/NAB Comments at 17. The issues in this proceeding raise questions regarding OET-69 in the context of measuring *interference* involving Class A, LPTV and translator stations. MSTV and NAB do not challenge the accuracy of the Longley-Rice Model as a means of predicting a station’s coverage area.

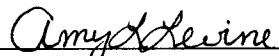
Respectfully submitted,

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